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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,356	01/12/2001	Victor E. Acuna	459712000100	9304

25227 7590 11/26/2004  
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MCLEAN, VA 22102

EXAMINER

LY, NGHI H

ART UNIT	PAPER NUMBER
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2686

21

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/758,356

**Applicant(s)**

ACUNA, VICTOR E.

**Examiner**

Nghi H. Ly

**Art Unit**

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 36-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claim 36 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 36, the claim recites "the wired and wireless signaling channels are configured to operate simultaneously". The specification does not disclose the wired and wireless signaling channels are configured to operate simultaneously.

Therefore, the above emphasized limitation was not described in the specification at the time the invention was filed.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (US 6,671,356) in view of Jensen et al (US 5,390,233).

Regarding claim 36, Lewis teaches a system comprising: a telephone set (see fig.2, telephone 24), having a wired signaling channel (see fig.2, wire 23), which has a microprocessor (see fig.5, controller 112) and an LCD display (see fig.4, display 72) and is connected to a public central office (see fig.2, wire 23), and a text message platform (see fig.1, box 12) linked to a radio transmission system (see fig.1, item 22 or fig.2, item 27), wherein a receiver-detector has been incorporated in the telephone set to establish a wireless signaling channel (see fig.4, item 96).

Lewis does not specifically disclose the wired and wireless signaling channels are configured to operate simultaneously.

Jensen teaches the wired and wireless signaling channels are configured to operate simultaneously (see Abstract and column 9, lines 1-5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Jensen into the system of Lewis in order to support a plurality of communication channels.

Regarding claim 37, Lewis further teaches text messages (see column 5, lines 1-5) or instructions messages can be sent simultaneously to a plurality of telephones sets (see column 5, lines 12-23), each having a respective receiver-detector installed and utilize the wireless channel (see column 5, lines 12-23).

Regarding claim 38, Lewis further teaches the wireless channel is configured to receive information and deliver it to the LCD display (see fig.4, item 72), independent of availability of the telephone set (see fig.4, item 72).

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4. Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (US 6,671,356) in view of Jensen et al (US 5,390,233) and further in view of Mizikovsky (US 5,559,860).

Regarding claims 39 and 40, the combination of Lewis and Jensen teaches the system in accordance with claim 36. The combination of Lewis and Jensen does not specifically disclose the receiver-detector identifies a code in each message to decode the message.

Mizikovsky teaches the receiver-detector identifies a code in each message to decode the message (see column 1, lines 27-33 and column 5, lines 25-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Mizikovsky into the system of Lewis and Jensen in order to identify data representing particular calling parties and select by the user.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 36-40 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (703) 605-5164. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi H. Ly

*NH Ly*  
*11/17/04*

*Marsha D Banks-Harold*  
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